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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/056,592
Filing Date: January 23, 2002
Appellant(s): DEH-LEE, KENNETH

Michael A. Papalas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3 June 2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

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Appellant's brief includes a statement that claims 1, 2 and 4-24 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

| | | |
|-----------|------------------|---------|
| 5,862,223 | WALKER et al. | 01-1999 |
| 6,325,632 | CHAO et al. | 12-2001 |
| 5,544,049 | HENDERSON et al. | 08-1996 |
| 6,223,165 | LAUFFER | 04-2001 |
| 6,370,231 | HICE | 04-2002 |
| 5,570,100 | GRUBE et al. | 10-1996 |

keen.com "KEEN: Your Personal Advisor", 30 October 2001.

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-9, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker et al.** (U.S. Patent 5,862,223) in view of **Chao et al.** (U.S. Patent 6,325,632).

Claims 17, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker et al.** (U.S. Patent 5,862,223) in view of **Chao et al.** (U.S. Patent 6,325,632) in view of **Henderson et al.** (U.S. Patent 5,544,049).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker et al.** (U.S. Patent 5,862,223) in view of **Chao et al.** (U.S. Patent 6,325,632) as applied to claims 1, 3-9, 15 and 16 above, and further in view of **Henderson et al.** (U.S. Patent 5,544,049).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker et al.** (U.S. Patent 5,862,223) in view of **Chao et al.** (U.S. Patent 6,325,632) in view of **Henderson et al.** (U.S. Patent 5,544,049) as applied to claim 2 above, and further in view of **keen.com** ("web pages").

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker et al.** (U.S. Patent 5,862,223) in view of **Chao et al.** (U.S. Patent 6,325,632) in view of **Henderson et al.** (U.S. Patent 5,544,049) as applied to claim 2 above, and further in view of **Lauffer** (U.S. Patent 6,223,165).

Claims 18, 19, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker et al.** (U.S. Patent 5,862,223) in view of **Chao et al.** (U.S. Patent 6,325,632) in view of **Henderson et al.** (U.S. Patent 5,544,049) as applied to claims 17, 20 and 21 above, and further in view of **Hice** (U.S. Patent 6,370,231).

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Walker et al.** (U.S. Patent 5,862,223) in view of **Chao et al.** (U.S. Patent 6,325,632) in view of **Henderson et al.** (U.S. Patent 5,544,049) in view of **Hice** (U.S. Patent 6,370,231) as applied to claims 18, 19, 22 and 23 above, and further in view of **Grube et al.** (U.S. Patent 5,570,100).

These rejections are set forth in a prior Office action, mailed on 4 January 2005.

For the convenience of the Honorable Board of Appeals and the Appellant, a copy of the rejections of representative independent claims 1 and 17 are included herein. The examiner notes

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that claim 1 was amended after final rejection, and so the following rejection is actually based upon a combination of the rejections of claims 1 and 3 in the Final Rejection of record.

Regarding claim 1, **Walker et al.** teaches a method of identifying relevant experts using a search request from a user substantially as claimed, comprising:

- a) maintaining an updateable and searchable database of expert profiles, wherein the profiles include attributes of a particular expert (see disclosure of expert database, col. 14, lines 25-41; see also expert qualifications database, col. 14, line 66 through col. 15, line 9); see also expert database 255 and expert qualifications database 285 in Figure 2), wherein one of the attributes is the expert's real-time availability (see disclosure of availability standards as an expert attribute, col. 14, lines 27-28); and
- b) receiving a search request from the user (see disclosure of user request, col. 17, lines 13-35).

Walker et al. does not explicitly teach a method including applying a weight designated by the user to the attributes of a desired expert.

Chao et al., however, teaches a method including applying a weight designated by the user to the attributes of a desired expert (see col. 5, lines 32-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to allow a user to weight the attributes, since this would allow the user to customize the search based

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upon which attributes were most important to him/her, stressing those attributes while placing less emphasis on attributes which are preferred, but are not viewed as very important to the user (see col. 5, lines 32-41).

Regarding claim 17, **Walker et al.** teaches a system for searching for experts having particular attributes substantially as claimed, comprising:

- a) a searchable and updateable database of expert information, wherein said database comprises a plurality of expert profiles, each of said profiles including data relating to one or more static and dynamic attributes of a particular expert (see disclosure of expert database, col. 14, lines 25-41; see also expert qualifications database, col. 14, line 66 through col. 15, line 9; see also method for updating expert database, col. 17, line 36 through col. 18, line 30);
- b) a user interface for allowing users to identify desired characteristics of a desired expert (see disclosure of user request, col. 17, lines 13-35);
- c) a processor for:
 - i) searching said database using said desired characteristics (see disclosure of search based upon submitted user request, col. 20, lines 28-49); and
 - ii) generating a list of ranked experts, wherein each expert's position in the list is determined by a ranking algorithm based on said static attributes and said dynamic attributes (see col. 20, lines 42-43).

Walker et al. does not explicitly teach a system including applying a weight designated by the user to the attributes of a desired expert.

Chao et al., however, teaches a system including applying a weight designated by the user to the attributes of a desired expert (see col. 5, lines 32-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to allow a user to weight the attributes, since this would allow the user to customize the search based upon which attributes were most important to him/her, stressing those attributes while placing less emphasis on attributes which are preferred, but are not viewed as very important to the user (see col. 5, lines 32-41).

Neither **Walker et al.** nor **Chao et al.** explicitly teaches a system wherein a ranked list of experts is displayed to the user.

Henderson et al., however, teaches a system wherein a ranked list of search results is displayed to the user (see col. 3, lines 24-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to display a ranked list of search results to the user, since this would ease the burden on the user to peruse a possibly extensive list of matching results, and furthermore since it would be obvious to display results in the order of best match to worst match, so that the user can easily see and select the result which best matched the request.

(11) Response to Argument

This Examiner's answer will address the arguments in the order in which they appear in the appeal brief.

A. Issue 1

Claims 1, 5, 7, 8, 15 and 16 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al.

Regarding claims 1, 5, 7, 8, 15 and 16, Appellant argues that **(1)** the combination of **Walker** and **Chao** fails to disclose maintaining the expert's real-time availability; that **(2)** **Walker** only contemplates the option of an expert locating a potential client in the future (distant or near), and does not contemplate a user having access to the expert's availability in real-time; and that **(3)** **Walker** requires that first requests are sent, and then bids are collected.

In response, the examiner presents the following arguments.

Initially, the examiner will give a brief overview of the **Walker et al.** reference.

As stated in the Abstract, the reference teaches “an expert matching method and apparatus for managing communication between an expert having particular qualifications and an end user seeking a solution to an expert request.”

In one embodiment of the invention, the end user submits a job request, and then waits to receive bids from experts willing to fulfill the request (see col. 7, line 6 through col. 8, line 15).

In another embodiment, candidate experts submit detailed applications to the Exchange in advance of receiving any job requests, providing detailed qualifications. This allows the user to select from a particular list of experts prior to submitting his request (col. 8, lines 16-67).

Additionally, **Walker et al.** discloses an embodiment which allows the expert and the user to communicate directly once they are put in contact with each other through the Exchange (col. 9, lines 1-18).

Regarding argument **(1)** [that the combination of **Walker** and **Chao** fails to disclose maintaining the expert's real-time availability], the examiner respectfully disagrees.

The examiner notes that at col. 14, lines 25-30, it is disclosed that the expert database maintains data on the experts, including availability standards. The examiner believes that this teaching alone would anticipate the claimed limitation of maintenance of ‘the expert's real-time availability’, since ‘real-time availability’ would merely be a subset of overall availability.

Further support for this interpretation can be found at col. 26, lines 45-57, wherein it is disclosed that

“The end user can request a synchronous communication channel when he makes his initial end user request using any of the embodiments of the present invention including the asynchronous communications embodiment and the interactive selection embodiment. If criteria includes a request for real-time communications, central controller generates a list of all qualified experts (as shown in Fig. 7, step 770) who are willing to establish synchronous communications channel.”

The examiner believes that the disclosed ‘experts’ willingness to establish synchronous communication’ would further qualify as the claimed ‘expert’s real-time availability’.

Regarding argument (2) [that **Walker** only contemplates the option of an expert locating a potential client in the future (distant or near), and does not contemplate a user having access to the expert’s availability in real-time], the examiner respectfully responds that, as stated above, the **Walker et al.** reference discloses a variety of embodiments, including wherein the user is presented with a list of experts from which to choose, and also wherein the expert and the user are put in direct communication with each other by the Exchange.

Furthermore, col. 17, lines 13-35 discloses that a user formulates a request 115, such as a question, and associates with said request a set of criteria 117, including time frame required for answer. The request 115 is combined with criteria 117 to create a complete end user request 120. This request 120 is submitted to the central controller and used to search the expert database 255 to find experts that are appropriate to answer the question 115 based upon criteria 117. In order for the controller to search the expert database to find an expert that meets criteria 117, criteria that includes the time frame required for response, the expert database would have to include information about an expert’s schedule and availability, information that would qualify as the claimed ‘expert’s real-time availability’.

Regarding argument (3) [that **Walker** requires that first requests are sent, and then bids are collected], the examiner respectfully points out that, as stated above in summarizing the reference, **Walker et al.** discloses additional embodiments of the invention besides that wherein a request is broadcast to experts and the user must wait until experts wishing to fulfill the request submit bids to the user.

For these reasons, the Examiner maintains that the rejection of claims 1, 5, 7, 8, 15 and 16 is proper, and should be sustained.

B. Issue 2

Claims 4, 6 and 9 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al.

Regarding claims 4, 6 and 9, Appellant argues that (1) the combination of **Walker** and **Chao** fails to disclose maintaining the expert's real-time availability; that (2) with regard to claim 4, **Walker** fails to teach "the database automatically updates the expert's availability"; that (3) with regard to claim 6, **Walker** fails to teach "the attribute is the expert's available time until a next assignment"; and that (4) with regard to claim 9, **Walker** fails to teach "the attribute is the expert's travel speed".

In response, the examiner presents the following arguments.

Regarding argument (1) [that the combination of **Walker** and **Chao** fails to disclose maintaining the expert's real-time availability], this argument has been addressed above with regard to Issue 1.

Regarding argument (2) [that **Walker** fails to teach "the database automatically updates the expert's availability"], the examiner respectfully responds that as cited in the rejection of record, the availability of the expert is automatically updated when the expert logs onto the Exchange; in this way, the Exchange knows to route any pertinent open job requests to the expert (col. 8, lines 29-32). There is no disclosed need for the expert to manually update their availability status, as alleged by the Appellant. The expert's status is automatically updated upon login to the Exchange.

Regarding argument (3) [that **Walker** fails to teach "the attribute is the expert's available time until a next assignment"], the examiner respectfully responds that this limitation is rendered obvious by the disclosures of **Walker et al.** that the expert database includes information on the expert's availability standards (col. 14, lines 27-28) as well as the disclosure regarding the ability of the system to select experts that conform to users' requirements for time frame required for an answer, requiring maintenance of experts' schedule information, as argued above with regard to Issue 1.

Regarding argument (4) [that **Walker** fails to teach “the attribute is the expert’s travel speed”], the examiner respectfully responds that this limitation is rendered obvious by the disclosures of **Walker et al.** that the expert database includes information on the expert’s availability standards (col. 14, lines 27-28) as well as the disclosure that the expert qualifications database maintains information regarding both the expert’s location and response times (col. 14, line 66 through col. 15, line 9).

For these reasons, the Examiner maintains that the rejection of claims 4, 6 and 9 is proper, and should be sustained.

C. Issue 3

Claims 17, 20 and 21 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al. in view of Henderson et al.

Regarding claims 17, 20 and 21, Appellant argues that (1) the proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids.

In response, the examiner presents the following arguments.

Regarding argument (1) [that proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids], the examiner respectfully responds that one of the embodiments taught by the **Walker et al.** reference allows a user to submit a query to the expert database and returns a list of those experts whose qualifications match the user's requirements (col. 8, lines 47-54; see also col. 20, line 28 through col. 21, line 11). Thus, incorporation of the ranking feature as disclosed by the **Henderson et al.** reference with the embodiment of **Walker et al.** wherein a list of qualified experts is displayed to the user would not render the invention unsatisfactory for its intended purpose, as alleged by the Appellant.

For these reasons, the Examiner maintains that the rejection of claims 17, 20 and 21 is proper, and should be sustained.

D. Issue 4

Claim 2 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al. in view of Henderson et al.

Regarding claim 2, Appellant argues that (1) the proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids; and that (2) combination of **Walker**, **Chao** and **Henderson** fails to disclose maintaining the expert's real-time availability.

In response, the examiner presents the following arguments.

Regarding argument (1) [that proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids], this argument has been addressed above with regard to Issue 3.

Regarding argument (2) [that the combination of **Walker**, **Chao** and **Henderson** fails to disclose maintaining the expert's real-time availability], this argument has been addressed above with regard to Issue 1.

For these reasons, the Examiner maintains that the rejection of claim 2 is proper, and should be sustained.

E. Issue 5

Claim 10 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al. in view of Henderson et al. in view of keen.com

Regarding claim 10, Appellant argues that (1) the proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids; that (2) the “Call Now” icon of the **keen.com** reference does not indicate that an expert would be available at that moment and the reference does not maintain real-time availability information on the expert; and that (3) the examiner mischaracterized the Appellant’s claim 1 in the Advisory Action dated 24 March 2005.

In response, the examiner presents the following arguments.

Regarding argument (1) [that proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids], this argument has been addressed above with regard to Issue 3.

Regarding argument (2) [that the “Call Now” icon of the **keen.com** reference does not indicate that an expert would be available at that moment and the reference does not maintain real-time availability information on the expert], the examiner respectfully responds that the **keen.com** reference is not relied upon to teach maintenance of real-time availability information, and so this argument is moot.

Furthermore, in response to the Appellant’s point that the “Call Now” icon appears to be part of the list whether or not the expert is available at that moment, the illustration of a number of possible icons at the bottom of the list (page 5) which could be used for a given expert, such as “Live Advice” (the “Call Now” icon), “Recorded Advice”, “Mail Now” or “Busy” is evidence that the **keen.com** reference does indeed maintain information as to whether a particular expert is available at that moment.

Regarding argument (3) [that the examiner mischaracterized the Appellant’s claim 1 in the Advisory Action dated 24 March 2005.], the examiner respectfully disagrees. In the cited Advisory Action, the examiner characterized the limitation as merely requiring the maintenance of real-time availability data on experts; this is not a characterization of the whole of claim 1.

To reiterate the examiner’s argument, the limitation that the expert database contain information on an expert’s real-time availability is contained in claim 1, and is taught by the **Walker**

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et al. reference, as argued by the examiner with regard to Issue 1. The limitation that the user is automatically connected to a selected expert by interfacing with the expert's name as it appears on the displayed list is contained in claim 10, and is taught by the "Call Now" icon of the **keen.com** reference, as stated in the rejection of record.

For these reasons, the Examiner maintains that the rejection of claim 10 is proper, and should be sustained.

F. Issue 6

Claims 11-14 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al. in view of Henderson et al. in view of Lauffer.

Regarding claims 11-14, Appellant argues that (1) the proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids.

In response, the examiner presents the following arguments.

Regarding argument (1) [that proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids], this argument has been addressed above with regard to Issue 3.

For these reasons, the Examiner maintains that the rejection of claims 11-14 is proper, and should be sustained.

G. Issue 7

Claims 18, 19, 22 and 23 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al. in view of Henderson et al. in view of Hice.

Regarding claims 18, 19, 22 and 23, Appellant argues that (1) the proposed modification of the **Walker** reference (by either **Henderson's** ranking or **Hice's** task management) would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids.

In response, the examiner presents the following arguments.

Regarding argument (1) [that proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids], this argument has been addressed above with regard to Issue 3.

For these reasons, the Examiner maintains that the rejection of claims 18, 19, 22 and 23 is proper, and should be sustained.

H. Issue 8

Claim 24 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Chao et al. in view of Henderson et al. in view of Hice.

Regarding claim 24, Appellant argues that (1) the proposed modification of the **Walker** reference (by either **Henderson's** ranking or **Hice's** task management) would render it

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unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids.

In response, the examiner presents the following arguments.

Regarding argument (1) [that proposed modification of the **Walker** reference would render it unsatisfactory for its intended purpose, since **Walker** does not return a list of experts to the user which can be ranked, but instead submits the request and returns bids], this argument has been addressed above with regard to Issue 3.

For these reasons, the Examiner maintains that the rejection of claim 24 is proper, and should be sustained.

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Conclusion

Claims 1, 2 and 4-24 are properly rejected under 35 U.S.C. §103(a).

In light of the foregoing arguments, the Examiner respectfully requests the Honorable Board of Appeals to sustain the rejections.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Luke S. Wassum
Primary Examiner
Art Unit 2167



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4 August 2005

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